

EXHIBIT M

1
2 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

3 -----X
4 NICOLE MORRISON AS ADMINISTRATOR FOR THE
ESTATE OF ROBERTO GRANT AND AS MOTHER AND
5 LEGAL GUARDIAN FOR THE PROPERTY OF SG AND
AG, DECEDENTS MINOR CHILDREN,

6 PLAINTIFF,

7
-against-

Case No.:

8 17Civ.6779(WHP)

9
10 UNITED STATES OF AMERICA, FEDERAL BUREAU OF
PRISONS, EXECUTIVE ASSISTANT LEE PLOURDE,
CORRECTION OFFICER KERNS and JOHN AND JANE
11 DOE(S) AGENTS, SERVANTS AND EMPLOYEES OF
THE DEFENDANTS,

12 DEFENDANTS.

13 -----X
14 DATE: July 28, 2020

15 TIME: 10:17 A.M.

16
17 VIDEOCONFERENCE DEPOSITION of a
18 non-party witness, MICHAEL CRAIG WARD,
19 taken by the Plaintiff, pursuant to a Court
20 Order and to the Federal Rules of Civil
21 Procedure, held at the U.S. Attorney's
22 Office, 86 Chambers Street, 3rd Floor, New
23 York, New York 10007-2632 before MELISSA
24 HARBORD, a Notary Public of the State of
25 New York.

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A P P E A R A N C E S:

LAW OFFICE OF ANDREW C. LAUFER, PLLC

Attorneys for the Plaintiff

264 West 40th Street, Suite 604

New York, New York 10018-1512

BY: ANDREW C. LAUFER, ESQ.

UNITED STATES ATTORNEY'S OFFICE

NEW YORK SOUTHERN DISTRICT

Attorneys for the Defendants

86 Chambers Street, 3rd Floor

New York, New York 10007-2632

BY: LUCAS ISSACHAROFF, ESQ.

* * *

F E D E R A L S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED by and between the counsel for the respective parties herein that the sealing, filing and certification of the within deposition be waived; that the original of the deposition may be signed and sworn to by the witness before anyone authorized to administer an oath, with the same effect as if signed before a Judge of the Court; that an unsigned copy of the deposition may be used with the same force and effect as if signed by the witness, 30 days after service of the original & 1 copy of same upon counsel for the witness.

IT IS FURTHER STIPULATED AND AGREED that all objections except as to form, are reserved to the time of trial.

* * * *

1 M.C. WARD

2 M I C H A E L C R A I G W A R D, called
3 as a witness, having been first duly sworn
4 by a Notary Public of the State of New
5 York, was examined and testified as
6 follows:

7 EXAMINATION BY

8 MR. LAUFER:

9 Q. Please state your name for the
10 record.

11 A. Michael Craig Ward.

12 Q. What is your address?

13 A. 86 Chambers Street, 3rd Floor,
14 New York, New York 10007-2632.

15 Q. Good morning, Captain Ward.

16 A. Good morning, sir.

17 Q. My name is Andrew Laufer. I'm
18 an attorney. I represent the Estate of
19 Roberto Grant in a lawsuit against the
20 United States of America. I'll be asking
21 you some questions regarding that.

22 Please wait for me to ask my
23 question first before you begin your
24 response, as the court reporter can't take
25 us down at the same time.

1 M.C. WARD

2 Please know that all your
3 responses to my questions should be in
4 verbal form. No nodding or shaking of the
5 head, as the court reporter can't take down
6 gestures.

7 Any time you need clarification
8 of anything I'm asking, you're more than
9 welcome to let me know that and I'll do my
10 best to clarify things for you.

11 If you want to take a break at
12 any time, you have to let us know. But not
13 while a question is pending. You must
14 answer the question first before we take a
15 break.

16 Do you have any questions
17 before we begin?

18 A. No, sir.

19 Q. In preparation for this
20 deposition, did you review any documents?

21 A. Yes, sir.

22 Q. Could you tell me what you
23 reviewed?

24 A. Just one document. I think it
25 was a 583, which is a report of incident

1 M.C. WARD

2 document. That's it.

3 Q. Form 583?

4 A. That's correct, sir.

5 Q. Are you currently employed?

6 A. Yes, sir.

7 Q. What are you employed as right
8 now?

9 A. I'm a security specialist at
10 the Poster House Museum in Downtown
11 Manhattan.

12 Q. When were you hired to do that?

13 A. June of 2019.

14 Q. So I assume you're no longer
15 with the Federal Bureau of Prisons; is that
16 correct?

17 A. That's correct, sir.

18 Q. When did you retire from BOP?

19 A. November 2015, sir.

20 Q. How long were you with Federal
21 BOP before that?

22 A. 20 years, sir. And I think a
23 month two. Take a month or two.

24 Q. That was your 20-year stint?

25 A. That's correct, sir.

1 M.C. WARD

2 Q. And at that juncture you are
3 eligible for retirement benefits?

4 A. That's correct, sir.

5 Q. And you retired with whatever
6 benefits you were supposed to retire with?

7 A. Yes, sir. That's correct.

8 Q. Were you asked to retire?

9 A. Not at all, sir.

10 Q. Very good.

11 Would it be fair it say that
12 you initially began your employment with
13 BOP back in 1995?

14 A. It was back in 1994, sir.

15 I was right out of the
16 military.

17 Q. What branch did you serve in?

18 A. I was in the Army, sir.

19 Q. Thank you for your service.

20 A. Thank you, sir.

21 Q. Were you honorably discharged?

22 A. Yes, sir.

23 Q. Did you have a rank?

24 A. Yes. Sergeant, E5.

25 Q. What year did you graduate high

1 M.C. WARD

2 school?

3 A. 1983.

4 Q. What year did you go into the
5 Army?

6 A. 1982.

7 Q. So you started in the military
8 basically since the time that you graduated
9 high school until 1994?

10 A. Yes, sir. That's correct.

11 Q. After 1984, you were honorably
12 discharged and you began your work with
13 BOP; is that correct?

14 A. That's correct, sir.

15 Q. I know it's a long time.
16 Do you recall when you entered
17 the academy for BOP?

18 A. I would say November of '94.
19 I'm not really sure. November, December
20 '94, maybe. I'm not sure.

21 Q. That's fine.

22 Did you initially work for BOP,
23 then, after the academy? Or did you just
24 go into the academy straight off?

25 A. No. I worked probably a month

1 M.C. WARD

2 or two, and then I went into the academy.

3 Q. To make sure that the position
4 was appropriate for you?

5 A. I was doing that in the
6 military, so.

7 Q. Oh. All right. That was your
8 job in the military.

9 What were you? An MP?

10 A. Well, I initially was airborne
11 infantry, and then became military
12 intelligence. And then my last three years
13 I was corrections NCO at the U.S.
14 Disciplinary Barracks in Leavenworth,
15 Kansas.

16 Q. Did you successfully complete
17 the academy?

18 A. Yes, sir.

19 Q. Do you recall what your first
20 assignment was out of the academy?

21 A. As far as location or --

22 Q. Location.

23 A. Yes. Otisville, New York. The
24 Federal Correctional Institution in
25 Otisville, New York.

1 M.C. WARD

2 Q. That's a minimum security
3 federal prison; is that correct?

4 A. Otisville at the time was
5 administrative. We held all different --

6 Q. What was your first title
7 coming out of the academy? What were you?

8 A. Correction officer, sir.

9 Q. Was it probationary correction
10 officer?

11 A. Yes, sir.

12 Q. How long were you a
13 probationary correction officer?

14 A. One year, sir.

15 Q. Did you successfully complete
16 that stint as a CO, probationary?

17 A. I was actually the rookie of
18 the year, sir. Yes.

19 Q. Congratulations. That's great.
20 So how long were you at
21 Otisville?

22 A. From 1994 until 1999, sir. I'm
23 almost sure.

24 Q. During that time period, did
25 your duties and responsibilities change in

1 M.C. WARD

2 any way?

3 A. Yes, sir.

4 Q. Can you describe for me your
5 responsibilities as a probationary CO, and
6 if they changed, and how they changed as
7 you progressed from 1994 through 1999?

8 A. Again, my first year was a
9 probationary correction officer. Basic
10 duties were the management of inmate
11 housing units. You were pretty much all
12 the different posts assignments within a
13 federal prison that first year just to get
14 experience working different assignments.
15 That was my first year.

16 Second year, you get assigned
17 an actual unit to work in. That's based
18 upon your seniority or just knowledge of
19 different work areas.

20 From there, I just progressed
21 to the point where I was actually temporary
22 promoted as a lieutenant my last year there
23 for six months. My last six months I was
24 temporary promoted as a lieutenant, which
25 was the position of great responsibility.

1 M.C. WARD

2 Q. What type of lieutenant were
3 you? There are different types, I believe?

4 A. Yes. You have an activities
5 lieutenant and you have an operations
6 lieutenant.

7 The activities lieutenant is
8 the GS9 lieutenant, which is the lower
9 echelon position of lieutenants. You have
10 a GS9 lieutenant and a GS11 lieutenant.
11 The GS9 lieutenant is your activities
12 license. And the GS11 lieutenant, which
13 will be your operations lieutenant.

14 So I was an activities
15 lieutenant as GS9. And my duties included
16 making rounds throughout the housing units,
17 paperwork, disciplinary hearings and things
18 like that, as far as dealing with inmates
19 on a daily basis and staff.

20 Q. During that time period, from
21 1994 through 1999, were you ever part of an
22 investigation involving an inmate death?

23 A. Not directly, sir. No.
24 Indirectly, yes.

25 Q. Briefly describe for me your

1 M.C. WARD

2 involvement or experience in dealing with
3 an inmate death during that time period.

4 A. We had an inmate who committed
5 suicide in the housing unit, okay. And
6 although it wasn't my unit, we were all
7 made aware of the situation that took
8 place. That's the extent that I was -- I
9 wasn't in a supervisory position at that
10 time. I was just an officer when that took
11 place. So I was very minimal.

12 Q. Do you know how the inmate went
13 about killing himself?

14 A. He hung himself in -- I think
15 it was a closet or a shower stall.
16 Something like that.

17 Q. Did you observe him in any way
18 after he committed suicide?

19 A. No, sir.

20 Q. After 1999, what was your next
21 assignment with the BOP?

22 A. Okay. I was transferred to the
23 lower security correctional institution in
24 Butner, North Carolina as a full lieutenant
25 as a GS9 lieutenant. Not a temporary

1 M.C. WARD

2 promotion, but a full promotion, to GS9
3 lieutenant at that time.

4 Q. How long were you at that
5 location?

6 A. Three years, if I'm not
7 mistaken, sir.

8 I made senior lieutenant, which
9 would have been operational lieutenant
10 during that tenure there, my tenure there.

11 Q. During your stint at that
12 particular institution, were you involved
13 in any kind of investigation pertaining to
14 an inmate death?

15 A. No, sir.

16 Q. After 2002, what was your next
17 assignment?

18 A. My next assignment was deputy
19 captain at the Metropolitan Detention
20 Center in Brooklyn, New York.

21 Q. And that was about 2002?

22 A. I think it was maybe 2003 --
23 2002, 2003 time frame. I'm not really
24 sure. It's been some time.

25 Q. That's fine.

1 M.C. WARD

2 Could you describe for me your
3 duties and responsibilities as a deputy
4 captain?

5 A. As deputy captain at MDC
6 Brooklyn, I supervised 20 lieutenants and
7 over 400 correction officers were under my
8 charge.

9 My job entailed assignments --
10 lieutenants assignments, training,
11 briefings of all sorts. And just a daily
12 operation -- management and operation of a
13 federal prison.

14 Q. Okay.

15 A. And assisting the captain.
16 Excuse me.

17 Q. Now, how long were you in this
18 position at MDC?

19 A. Two years, sir.

20 Q. During this time period, were
21 you involved in any type of investigation
22 involving an inmate death?

23 A. No, sir.

24 Q. Now, either as a CO lieutenant,
25 either type of lieutenant or deputy

1 M.C. WARD

2 captain, did you receive any training
3 involving investigating a death of an
4 inmate?

5 A. Direct training involving a
6 death of an inmate, sir, no. But with our
7 training, we're taught procedural things to
8 do in the event of a death of an inmate.
9 There are certain procedures that have to
10 be followed that you are -- you know,
11 you're trained, you know, to do, to carry
12 out, in the event that an inmate has died,
13 you know, during your time there. But you
14 mean like a class on what to do? No.

15 Q. Well, could you describe for me
16 what kind of training you received?

17 A. As far as procedurals, depends
18 upon what type of death, you know, took
19 place. Whether it be, you know, a
20 homicide, suicide, or something like that.
21 You know, we're taught proper forms you
22 have to fill out. 583, which is a report
23 of an incident. The proper notifications,
24 as far as notifying, you know, the chain of
25 command, in that type of situation.

1 M.C. WARD

2 Medical staff. You know, medical
3 notifications that need to be made. As
4 well as any type of training, like I said,
5 in CPR, things like that, depends upon, you
6 know, when you go on the scene of a
7 situation, you know, how to react to that.
8 And then the notifications to the FBI. You
9 know, things along that line there.

10 Q. Up to this point have you ever
11 been involved in any way, directly
12 involved, either as a witness or
13 investigating the death of an inmate?

14 A. No, sir.

15 Q. So how long did you stay at MDC
16 as a deputy captain until?

17 A. I think until 2005, sir.

18 Q. After 2005, or during 2005,
19 what was your next assignment?

20 A. The next assignment was captain
21 at the Federal Correctional Institution in
22 Fairton, New Jersey.

23 Q. Was that in 2005 that you were
24 assigned there?

25 A. Yes, sir. I'm almost sure.

1 M.C. WARD

2 Q. Could you describe for we what
3 your duties and responsibilities were as a
4 captain at FCI?

5 A. At the FCI, I was a
6 correctional supervisor, supervising
7 approximately 12 lieutenants, maybe 200
8 officers. And again, my role was the
9 overall supervisor to the correctional
10 working staff at that facility.

11 Q. And the warden is the only
12 person that was above you, is that correct,
13 at that juncture?

14 A. No, sir.
15 You have an associate warden,
16 and then a warden.

17 Q. I see. That's right.
18 How long did your stint at FCI
19 last until?

20 A. Two years, sir. I think to
21 2007.

22 Q. During that time period, were
23 you involved either directly or indirectly
24 in any investigation involving the death of
25 an inmate?

1 M.C. WARD

2 A. Involving the death of an
3 inmate? No, sir. But again, numerous
4 suicide attempts and things like that, I
5 was involved in. But not an inmate death,
6 sir.

7 Q. In 2007, what was your next
8 assignment?

9 A. My next assignment was to the
10 northeast regional office.

11 I was the regional special
12 investigations supervisor.

13 Q. I'm sorry. What were you
14 again? Repeat that one more time.

15 A. Okay. I was assigned to the
16 northeast regional office.

17 Q. Okay.

18 A. Which is the regional office
19 for 18 federal prisons within the northeast
20 regional.

21 I was the regional special
22 investigations supervisor. So I oversaw 18
23 special investigative supervisors at 18
24 federal prisons within that region.

25 Q. And that's in Philadelphia?

1 M.C. WARD

2 A. That's correct, sir. That's in
3 Philadelphia.

4 Q. How long were you in that
5 position for?

6 A. I think four years, sir.

7 Q. So approximately 2011? Would
8 that sound about right?

9 A. Yes, sir.

10 Q. During that time period, were
11 you involved in any kind of investigatory
12 capacity of an inmate death in those --
13 it's a lot of prisons, I understand. But
14 any investigation involving an inmate
15 death?

16 A. The answer to that question is
17 yes. But at the regional level, where I
18 would receive --

19 Q. I'm sorry, captain. Could you
20 just repeat that again?

21 A. I was -- my answer was yes. At
22 the general level I would have received
23 reports from those institutional special
24 investigative supervisors, special
25 investigative agents, in reference to

1 M.C. WARD

2 inmate deaths at their institutions. I
3 would review paperwork. And if there are
4 any video footage, I would be privy to that
5 evidence, and so forth.

6 Q. What would you do with this
7 information that you would get? Would you
8 approve it? Would you send it somewhere
9 else? What would you do with it?

10 A. It would all be a part of the
11 investigative file. Which if the FBI would
12 be called in to investigate, depends on
13 what type of death occurred. My job would
14 be, as far as the regional level, reviewing
15 to make sure that, you know, all the I's
16 were dotted and T's were crossed and
17 everything was done procedurally correct in
18 dealing with that -- an inmate death.

19 Q. So it would be more of an
20 administrative position, in that you were
21 making sure that everyone was doing their
22 job properly?

23 A. That's correct, sir.

24 Q. So it wasn't as if you were
25 directly involved in any investigation, per

1 M.C. WARD

2 se?

3 A. Well, I conduct and -- I would
4 conduct investigations if the wardens at
5 those facilities did not want
6 investigations run in-house. They would
7 conduct the regional office and I would be
8 dispatched to those facilities to conduct
9 the investigations. But I did not conduct
10 any investigations on inmate deaths during
11 that period.

12 Q. What type of investigations did
13 you conduct?

14 A. Staff misconduct.

15 Q. Would any of that staff
16 misconduct investigations involve
17 misconduct of an investigation involving an
18 inmate death?

19 A. No, sir. Not to the best of my
20 knowledge.

21 Q. That's fine.

22 So in 2011, what was your next
23 assignment?

24 A. Next assignment, I was captain
25 of MCC New York.

1 M.C. WARD

2 Q. When were you assigned to be
3 the captain of MCC New York?

4 A. I think it was March 2011, sir.

5 Q. And you stayed at that position
6 until you retired in 2015?

7 A. That's correct, sir. Yes, sir.

8 Q. Prior to the incident involving
9 my client, were you involved in any
10 investigations of inmate deaths at MCC?

11 A. No, sir.

12 Q. Please describe for me what
13 your duties and responsibilities were as
14 assigned captain at MCC.

15 A. Again, I was the chief
16 correctional supervisor. I supervised 12
17 lieutenants, over 250 officers. My job was
18 the daily operations and activities --
19 overseeing the daily operations and
20 activities and the orderly running of the
21 federal institution in Manhattan. Oversaw
22 all training, again, in activities and
23 operations, basically.

24 Q. Did any of your duties and
25 responsibilities involve investigation of

1 M.C. WARD

2 staff misconduct, to the degree any
3 existed?

4 A. I didn't conduct investigations
5 of staff misconduct, but I was privy to all
6 investigations involving staff misconduct.

7 Q. Were you privy to
8 investigations involving staff misconduct
9 and issues they may have involving
10 prisoners?

11 A. Yes, sir.

12 Q. Would any of that include
13 investigations of excessive force used
14 against prisoners by staff?

15 A. Yes, sir.

16 Q. Did any of your investigations
17 involve anyone by the name of an officer by
18 the name of Kerns?

19 A. Officer Kerns?

20 Q. Yes.

21 A. No, sir.

22 Q. Do you know who he is?

23 A. Yes, sir.

24 Q. What do you know about him?

25 A. He was one of my correction

1 M.C. WARD

2 officers when I was the captain there, sir.

3 Q. Anything outstanding that you
4 remember about him?

5 A. Nothing that was, you know --
6 again, as the captain, you remember the
7 ones that were in trouble more than you
8 remember the ones that did well.

9 Q. Gotcha.

10 Let's talk about my client,
11 Roberto Grant.

12 Are you familiar with my
13 client?

14 A. I do remember your client, sir.
15 Yes.

16 Q. Prior to the incident involving
17 him, do you recall anything else about him?

18 A. As far as personality-wise,
19 sir?

20 Q. Yes. Anything.

21 A. Yeah. Well, I remember Grant
22 because he was a very out -- not really
23 outspoken in a negative way, but just, you
24 know, he would -- when I go make rounds in
25 the unit, you know, he'd be the person that

1 M.C. WARD

2 you could talk to in the unit if there was
3 issue. Something like that. If you needed
4 to find out information or something, you
5 know, you could talk to him. He was, you
6 know, very approachable.

7 Q. Would he tell you about
8 incidents involving other prisoners that
9 may have occurred in his unit?

10 A. Not to me, sir. I think he
11 would have probably spoken with my special
12 investigative agent or one of the
13 supervisors.

14 Q. Could you describe for me the
15 unit that Mr. Grant was assigned to at BOP?

16 A. Oh, boy.

17 I remember it was an open bay
18 unit, okay. Not -- well, the tiers that
19 they were on were -- there were some open
20 bay tiers inside that unit. You also had
21 some tiers that had several beds within an
22 area in the unit.

23 Q. Was that 11 South, do you
24 recall?

25 A. Yes, sir. Yes. 11 South.

1 M.C. WARD

2 Q. Can you describe for me the
3 entire housing area of 11 South, what it
4 looks like, and where everything is kind of
5 located?

6 A. It's been so long.

7 Q. I hear you.

8 A. Wow.

9 You walk into the unit, and you
10 had stairs that would go down into the
11 inmate living quarters, as well as stairs
12 that would go up to the other areas that
13 were inmate living quarters, also, as well.

14 It's been a while now.

15 And then you'd walk onto the
16 tiers themselves and we have maybe be bunk
17 beds in the units. And inside that area,
18 you'd have the bathroom, you'd have the
19 shower area inside the unit -- inside the
20 living quarter area where the inmates were,
21 in those open bay areas.

22 Just to the best of my
23 recollection. It has been a while.

24 Q. No. I hear you.

25 Now, you say tiers. It's kind

1 M.C. WARD

2 of like there's an open area at the bottom,
3 and then it kind of goes up with steps?

4 A. That's correct. You'd have to
5 go the stairs to get to the next level.
6 Where they would also be other inmate
7 living quarters. I think four, if I'm not
8 mistaken.

9 Q. And those living quarters would
10 be gated off from --

11 A. That's correct, sir.

12 Q. Within those tiers, was it an
13 open area, were there individual cells,
14 something else?

15 A. No. There were -- it's an open
16 area that had bunk beds.

17 Q. And the showers were actually
18 within each tier?

19 A. Yeah. Each area had their own
20 showers, if I'm not mistaken. No, no.
21 Wait up. That's where I'm -- the
22 showers -- the showers were -- the
23 bathrooms were in the area where -- wow.
24 Excuse me. I'm sorry. Because it has been
25 a while. I'm just trying to remember.

1 M.C. WARD

2 Because we had so many different
3 configurations.

4 Q. Take your time. It's fine.

5 A. I think the showers either were
6 in the area where -- like inmates could
7 take showers at any time and utilize the
8 bathroom. They would have to access to
9 that, even if we were locked down, I
10 assume. But I think that the showers, as
11 well as the restroom areas were within
12 those areas -- those gated areas where they
13 spelt.

14 Q. How many inmates would be in
15 each tier in these gated areas? Do you
16 know how many would be assigned?

17 A. I would say -- oh, my goodness.
18 Maybe 20.

19 Q. Was there a specific time that
20 the inmates would be locked in for the
21 evening?

22 A. Yes. After the 9:00 count.
23 9:00 -- we would have the 9:00 count, then
24 we'd open it up. And I think at 11:00,
25 then that's when we would shut it down at

1 M.C. WARD

2 11:00, if I'm not mistaken. It's been -- I
3 kind of put all that on the other side of
4 my brain. But I think that we would shut
5 it down prior to the shift change.

6 Q. Was it like lights out at that
7 point?

8 A. No. I think -- what happened
9 is the inmate orderlies would come out and
10 clean the units at that point. And the
11 other inmates would be, you know -- if they
12 had units that had cells, they would be in
13 the cells. If they didn't have cells, they
14 would just be outside on their bunks in the
15 open bay areas. But it would be -- yeah,
16 it would be -- again, if you had single
17 cells, you could have your light on. If
18 you're in the open bay areas, they had, you
19 know, access to the lights themselves. So
20 they could have them on or off. But the
21 common area lights would go down and so
22 forth after the cleaning was done -- when
23 the common area was done.

24 Q. How many inmates in total were
25 in 11 South around, let's say, May of 2015?

1 M.C. WARD

2 A. I don't recall, sir. But if I
3 had to give a number, I would say, you
4 know, 90-something inmates, maybe.

5 Q. During the evening hours, how
6 many officers, according to the BOP, would
7 be in charge of overseeing these inmates?

8 A. One, sir.

9 Q. Where would this officer's post
10 be?

11 A. He would have an office.

12 Q. Where?

13 A. It would be -- when you walked
14 into the housing unit, it was just an area
15 that -- it was turned into like an
16 officer's station type office, you know,
17 right there in the middle common area. Not
18 in the middle, but along the wall, as you
19 came into the unit, you could see -- the
20 officer, he could see to the left or to the
21 right.

22 Q. From this office, would the
23 officer, BOP personnel, have a view of the
24 entire housing unit?

25 A. Not of the entire housing unit.

1 M.C. WARD

2 But he could still see movement on the
3 tiers and things like that.

4 Q. So he would be able to look
5 from that particular post into each housing
6 unit?

7 A. To the tiers. Yeah, he could
8 probably see all the tiers. Not the --
9 like the downstairs tiers, maybe the
10 upstairs tiers, he could see, depending
11 upon where he was in his office. I'm just
12 trying to get a better picture of how I
13 recall it looking. Yeah, I think he could.
14 I think he could actually see at least two
15 tiers in front of him, the one on the left
16 and the one on the right from his officer's
17 station.

18 Q. Were one of those tiers where
19 my client, Roberto Grant, was housed, do
20 you know?

21 A. I'm not sure, sir. I don't
22 recall.

23 Q. That's fine.

24 Would the officer also patrol
25 during that time?

1 M.C. WARD

2 A. Yes, sir. He's supposed to.

3 Q. Were there ever any instances
4 that you can recall where an officer just
5 stayed at this post and didn't patrol?

6 A. Yes, sir.

7 Q. And that was during your stint
8 at MCC?

9 A. Yes, sir.

10 Q. Do you know who the officer was
11 that was assigned the evening of my
12 client's incident?

13 A. I don't recall, sir.

14 Q. If I told you it was Officer
15 Kerns, would that refresh your
16 recollection?

17 A. Yes, sir.

18 Q. So could you describe for me
19 how, according to your rules, how Officer
20 Kerns on that evening was supposed to
21 patrol the unit?

22 A. Again, different officers would
23 do different things. But as far as
24 policies are concerned, officers were
25 supposed to just make continuous rounds

1 M.C. WARD

2 throughout the housing unit. And again,
3 they would have certain checks that they
4 would have to do going through the units.
5 Just to ensure, like I said, there were no
6 issues or incidents taking place.

7 Q. How often would they have to
8 patrol? It would just be constant? They
9 would just keep patrolling the entire
10 night?

11 A. You know what? It depends on
12 the officer. But you know, a minimal of
13 every 30 minutes that they're out and
14 about, you know, patrolling the units that
15 they were in. A minimal of every 30
16 minutes, they should be out and about
17 patrolling.

18 Q. So there's a period of time
19 when they're not patrolling?

20 A. Yes. They would be conducting
21 what are known as shake-downs, where
22 they're searching for contraband throughout
23 the unit, okay. They're doing security
24 checks, ensuring that, you know, doors are
25 secured, you know, bars are not being

1 M.C. WARD

2 tampered with. Things like that. You
3 know, throughout that period of time, those
4 were some of the things that the officers
5 would do when they're making their rounds.

6 Q. Well, when they're making their
7 rounds. But there's also a period of time
8 when they're not doing rounds, when they
9 would just be at their posts; is that
10 correct?

11 A. Correct. Yes, sir.

12 Q. And they have to make at least
13 one round every 30 minutes, correct?

14 A. That's correct, sir.

15 Q. So when they're not, how long
16 does it take to make a round?

17 A. It all depends. In the open
18 bay unit, it would be a little bit longer.
19 Because, again, they should go through
20 those units -- you have so many units in
21 the area -- just to make sure, you know,
22 everyone's okay. You go down to the next
23 unit -- I mean the next tier, the next
24 tier. It's a little bit different than
25 when you're in a secure unit, where you

1 M.C. WARD

2 just, you know, make your rounds and put a
3 flashlight through the door and keep going.

4 Q. During this time period of,
5 let's say, 2015, May, April, June -- we'll
6 go back to January. Were there any issues
7 in this particular housing unit involving
8 synthetic marijuana, K2?

9 A. I don't recall that being
10 specific to that tier. I know that whole
11 K2 thing, even for me as a captain, was
12 fairly new. And we were still trying to
13 understand it, you know, what it was.
14 Because I was under the assumption that --
15 well, not just me, but -- you know, we
16 didn't know whether it was drugs or whether
17 it was -- you know, because they were
18 selling it at stores in the city at that
19 time. So we really didn't know what we had
20 on our hands.

21 Q. Do you know whether or not any
22 K2 was brought into MCC during that time
23 period?

24 A. Yes. There was K2 brought into
25 the institution during that time period.

1 M.C. WARD

2 Q. During that time period, would
3 K2 be considered a contraband, something
4 that prisoners shouldn't possess?

5 A. Yes, sir. K2 was contraband,
6 yes.

7 Q. And it was prevalent within the
8 prison at that time? Would that be fair to
9 say?

10 A. I wouldn't say prevalent. But
11 it was there.

12 Q. Would there be any kind of
13 disputes between prisoners over K2 for any
14 reason that you're aware of during that
15 time period?

16 A. No.

17 Q. Do you know if people were
18 dealing K2 during that time period?

19 A. Yes.

20 Q. Within the prison?

21 A. Within the prison, sir, yes.
22 That's correct.

23 Q. Do you know if my client,
24 Roberto Grant, was involved in any kind of
25 these allegations against him involving

1 M.C. WARD

2 dealing K2?

3 A. I will say this, sir. That
4 while I'm not 100 percent sure, I do recall
5 not just basically K2, but that Grant was
6 involved in some sort of contraband prior
7 to that.

8 Q. Drugs? Something else?

9 A. I think drugs, sir.

10 Q. Do you know if he was dealing
11 or there were allegations that he was
12 dealing?

13 A. I would say allegations of him
14 dealing, sir.

15 Q. Did you institute or do you
16 know if anyone instituted an investigation
17 regarding that?

18 A. It would not have been me. It
19 would have been my special investigative
20 agent or my special investigative
21 supervisor, sir.

22 Q. Fair enough.

23 During your time period over at
24 MCC, do you know whether or not any inmates
25 got into altercations over, you know,

1 M.C. WARD

2 contraband or drugs that may have been
3 being dealt at MCC?

4 A. Yes, sir. Yes, sir. There
5 would be numerous incidents of altercations
6 based on drugs as the contraband.

7 Q. Physical altercations?

8 A. Yes, sir. Physical
9 confrontations.

10 Q. Do you know whether in this
11 particular housing area that would apply as
12 well, there would be instances of --

13 A. I don't know of any specific
14 incident. But again, you know, we're
15 talking federal prison, open bay unit.
16 Again, yes, I would have assumed during my
17 period of time there that that would have
18 happened. No doubt.

19 Q. Are open bay units more prone
20 to having incidents between prisoners, as
21 opposed to ones that just have cells?

22 A. Yes, sir.

23 Q. Because there's more
24 interaction between the prisoners; is that
25 correct?

1 M.C. WARD

2 A. Yes, sir.

3 Q. Did you feel, during this time
4 period, that you would need some more
5 security oversight of COs in these types of
6 units that had open bays?

7 A. No, sir. I didn't feel that
8 way.

9 Q. You felt that, it was the
10 evening, it was appropriate just to have
11 one CO patrolling the unit that housed over
12 90 inmates?

13 A. Yes, sir.

14 Q. Is that a BOP regulation, or is
15 that just what you felt in terms of
16 managing the operations?

17 A. Well, BOP regulations. There
18 were certain staffing guidelines that we
19 followed as far as when we staff units. I
20 don't recall when I first came into the
21 bureau, you would have two officers per
22 unit. And over the years, that went down
23 because of staffing issues to one officer
24 to a unit.

25 Q. So there were staffing issues

1 M.C. WARD

2 that led to the one officer change?

3 A. I think at bureau-wide. Not
4 just at MCC. This is something throughout
5 the entire bureau, when they put together
6 staffing guidelines. They said that, you
7 know, one officer sufficed to run a housing
8 unit, basically.

9 Q. Do you know when this occurred?

10 A. I don't.

11 Q. So this new policy was in
12 effect at the time of the incident
13 involving my client; is that correct?

14 A. Yes, sir.

15 Q. Do you recall the incident
16 involving my client?

17 A. I do.

18 Q. What do you recall?

19 A. I recall getting the call from
20 my operations lieutenant that there was a
21 situation in the unit involving an inmate,
22 and the inmate had to be evacuated to the
23 hospital.

24 Q. Do you recall who your
25 operations lieutenant was at that time?

1 M.C. WARD

2 A. I think it was Lieutenant
3 Delaney, Patrick Delaney.

4 Q. And he just informed you that
5 this was occurring? Did he need any
6 approvals or anything from you?

7 A. No. Negative. He didn't need
8 any approvals for anything. There was
9 notifications and I would have to notify
10 the warden, or the associate warden. Or
11 the duty officer would have made those
12 notifications, as well. Any time an inmate
13 went out of the institution unauthorized or
14 not scheduled, we would be notified.

15 Q. Did he inform you of the
16 condition that Grant was in at the time
17 that he had to be evacuated from the unit?

18 A. Yes. He said that he was
19 unresponsive. I think he was unresponsive
20 at the time when I got the call.

21 Q. Did you receive any other facts
22 involving what had occurred at that time?

23 A. At that time, no. Going into
24 the next day, yes.

25 Q. Were you on duty at the time

1 M.C. WARD

2 that you were notified?

3 A. As a captain, I'm on duty 24
4 hours a day, sir.

5 Q. But were you actually at the
6 facility at that time?

7 A. No, sir. I would have been
8 home.

9 Q. After you received this
10 notification what, if anything, did you do?

11 A. I would have notified my
12 supervisor, which would have been the
13 associate warden. Who would have then
14 notified the warden.

15 Q. Did you notify the associate
16 warden?

17 A. I would have. I mean, that was
18 procedure, so I know I would have notified
19 the associate warden.

20 Q. After you did that, what, if
21 anything, did you do?

22 A. I would have just stood by,
23 waited for further updates on the situation
24 with the inmate going out to the hospital,
25 ensuring that we had enough staff, as far

1 M.C. WARD

2 as security to get the inmate to the
3 hospital and so forth. So I would have
4 just stood by to ensure everything, you
5 know, went according to the procedures, per
6 the phone call.

7 Q. Do you recall anything specific
8 that you did? I understand that's what you
9 would normally do, but did you --

10 A. No, I can't recall anything
11 specific I would have done. I know I would
12 have come to work a little bit earlier than
13 normally that next day, once I got the
14 information that the inmate passed away.

15 Q. Do you know what the inmate
16 passed away from?

17 A. At the time, that day, no, sir.

18 Q. Did you hear any kind of rumors
19 or any kind of thoughts -- before you
20 actually learned what he died from, did you
21 hear anything prior to that, what he may
22 have died from?

23 A. Yes, sir.

24 Q. What was that?

25 A. It was K2.

1 M.C. WARD

2 Q. K2 overdose?

3 A. Yes, sir.

4 Q. Do you recall who told you
5 that?

6 A. Again, it would have my special
7 investigative supervisor who would have
8 told me that. But, as you stated earlier,
9 like with rumors, we found out -- I found
10 out the next day that several inmates had
11 also overdosed on K2 in that same -- on
12 that same tier where Inmate Grant was.
13 They actually -- I think there were maybe
14 three or four other inmates. And the other
15 inmates tried -- took them either in the --
16 you know, the shower or in the toilet area,
17 and were putting water on their faces to
18 revive them. I remember that specifically,
19 you know, hearing that news. That there
20 were several of the inmates on the tiers
21 themselves who had also overdosed. And
22 they were able to bring those inmates back.
23 When it came to Grant, he was unresponsive
24 to the point that that didn't happen.

25 Q. What did you actually learn the

1 M.C. WARD

2 next day, aside from what you just told me,
3 about the death involving my client?

4 A. At that point, the FBI would
5 have been notified. I would have
6 notified -- as the captain, I would have
7 notified the FBI to come in and -- to do
8 their part. Which is to conduct a full
9 investigation. The FBI would conduct a
10 full investigation involving an inmate
11 death within federal property.

12 Q. And the FBI was called in on
13 this particular instance?

14 A. Yes, sir.

15 Q. Did you speak to anyone at the
16 FBI regarding this incident?

17 A. I do recall speaking to our
18 agent, but not -- at that time we didn't
19 have facts about what happened. So it
20 would have just been basic, you know,
21 talking to the agent about, okay, this is
22 the situation that we have and that's it.
23 They will handle the investigation, not us.
24 We would have turned over everything that
25 we had at the time to the FBI.

1 M.C. WARD

2 Q. Did your staff investigate at
3 all and turn over -- do you know what they
4 turned over to the FBI?

5 A. I don't know what they turned
6 over to the FBI. No, sir.

7 Q. Were you involved in the
8 investigation at all?

9 A. No. Not at that point. My
10 SIA, which is special investigation agent,
11 he would have turned over any documents,
12 memorandums, interviews from other inmates
13 on the tier, any type of drug paraphernalia
14 from the unit itself. He would have
15 gathered all that information and turned
16 that over to our FBI agent.

17 Q. Do you know if any drug
18 paraphernalia or drugs themselves were
19 seized at that time?

20 A. I don't recall at this time,
21 sir.

22 Q. What was the next thing that
23 you were involved in regarding the death of
24 my client?

25 A. I think at that point, once the

1 M.C. WARD

2 FBI took it over, the bureau of prisons at
3 that point in time would have waited for
4 them to finish conducting their
5 investigation. There were things that we
6 were being told, you know, off the record,
7 basically. But other than that, you know,
8 it wouldn't have been up to us now to
9 proceed to conduct our investigation.

10 Q. Were you told anything off the
11 record about it?

12 A. Yes.

13 Q. What were you told?

14 A. That he had a family member, a
15 woman, who had came in to the visit that
16 day and had brought him in some drugs.

17 Q. K2 or something else?

18 A. K2.

19 Q. And at that point you didn't
20 know whether or not it was drugs, it was
21 just something that they sold in stores,
22 and she brought it in?

23 A. Yes.

24 Q. But it's still contraband?

25 A. Exactly.

1 M.C. WARD

2 Q. How did they know that she
3 brought something in?

4 A. I think through the
5 investigation, they would have pulled the
6 cameras. And through the video footage, I
7 think they would have seen something that
8 would have alerted them that possibly
9 exists that she could have passed something
10 to him.

11 Q. Are those cameras regularly
12 monitored?

13 A. Yes, sir.

14 Q. If something was observed that
15 may have been suspicious, should your staff
16 or whoever was manning the cameras or the
17 security at the time in the area that this
18 supposed handoff occurred, would they have
19 stopped it?

20 A. During the time that it
21 happened, in real time, yes, they would
22 have stopped it. If they didn't see it
23 because there were so many other things
24 going on, you know they're still reviewing
25 other things that are happening during the

1 M.C. WARD

2 visit, they may not have caught it at that
3 time. But then after this incident, you
4 know, you go back, view the tapes again,
5 now they may have saw something at that
6 point in time that would have alerted them
7 that the family member or the person who
8 came into the facility to visit Inmate
9 Grant would have given him something.

10 Q. Was this captured on video
11 surveillance?

12 A. Again, it's been so long. I
13 was made aware that he had a visit that day
14 and that something was given to him at that
15 visit. Even to the point where I do recall
16 the FBI agent saying to me that they were
17 going to conduct an investigation on the
18 female who came to visit him that day. So
19 from that, I felt strong enough that they
20 had evidence or information that something
21 was brought into Grant by someone.

22 Q. When prisoners have visitors,
23 are they searched prior to going back to
24 their housing area after the visit is
25 concluded?

1 M.C. WARD

2 A. Yes, sir.

3 Q. Do you know if Mr. Grant, as a
4 matter of course, would have been searched
5 after this visit?

6 A. As you said, as a matter of
7 course, yes, sir, he would have been
8 searched.

9 Q. Do you have any issues with any
10 COs that may have been assigned to the
11 visiting area to search prisoners of being
12 bribed or not properly doing their job in
13 searching prisoners for contraband?

14 A. At that time I don't recall
15 that, sir. No.

16 Q. So there was allegedly a
17 handoff, and after the visit he would have
18 been searched as a matter of course prior
19 to going back to his housing area?

20 A. Are you asking me, counsel?

21 Q. Yes. Is that correct?

22 A. Yes. He would have -- again,
23 if he was given something, he would have
24 either swallowed it, you know, done
25 something with it. He would have been

1 M.C. WARD

2 strip searched by our staff. Then he would
3 have went back to his housing unit at that
4 time and that's it. So he would have had
5 to strip search prior to leaving the
6 visiting area.

7 Q. So it wouldn't just be a
8 pat-down, it would be an actual strip
9 search, where you cough?

10 A. Exactly.

11 Q. K2, it comes in various forms;
12 is that correct?

13 A. Again, I was not so familiar
14 with it at that time, you know, because it
15 was still something fairly new, even to the
16 bureau. But they said that there were --
17 it comes in several different forms. It
18 could be smoked, there was incense. There
19 were so many different things. Marijuana
20 that's laced.

21 Q. It could be sprayed on paper
22 and they could smell the paper?

23 A. Yes, sir.

24 Q. And it could look like
25 marijuana, things like that?

1 M.C. WARD

2 A. Yes, sir.

3 Q. It could smell, it would have
4 kind of a pretty pungent odor?

5 A. Yes, it did. I do recall that.

6 Q. Do you know whether or not any
7 of your staff were investigated in relation
8 to either the drug smuggling -- alleged
9 smuggling, I should say, of the K2 drug,
10 and/or the death of my client by the FBI?

11 A. The FBI would have interviewed
12 any staff that were on duty in that unit
13 that day. As well as the lieutenant. Or
14 as well as anyone who would have come into
15 contact with Inmate Grant during the visit.
16 You know, they would have spoken to anyone
17 that had any contact with that inmate that
18 day. Yes, sir.

19 Q. You weren't interviewed by the
20 FBI, correct?

21 A. Correct. I was not.

22 Q. Do you know if Lieutenant
23 Patrick Delaney was?

24 A. I didn't see his report, but I
25 would assume that he was.

1 M.C. WARD

2 Q. What about Officer Kerns?

3 A. Again, I would assume that he
4 was.

5 Q. Do you know if anyone else
6 might have been interviewed?

7 A. I'm not sure. Maybe the
8 officers in the visiting room, sir. But I
9 don't want to say what I don't know for
10 sure.

11 Q. Aside from what you told me, do
12 you recall any other information that
13 you've learned in relation to my client's
14 death?

15 A. No, sir.

16 Q. Were you the one that made the
17 referral to the FBI of this?

18 A. My SIS or my SIA, special
19 investigative agent at that time, I think
20 her name was Mary Wade Jones, she would
21 have been the one to make that.

22 Q. Do you know whether or not one
23 was actually done in order to get the FBI
24 involved?

25 A. As far as what would actually

1 M.C. WARD

2 be done?

3 Q. No.

4 Do you know whether or not it
5 was done to get the FBI involved?

6 A. Yes. I spoke with the FBI
7 agent that day.

8 Q. Do you know the basis for the
9 request of the investigation by the FBI by
10 your staff?

11 A. It would be a phone call from
12 the special investigative agent at MCC to
13 the FBI agent assigned to our facility,
14 notifying that agent of an inmate death.
15 And then that agent would then come into
16 the institution and begin his
17 investigation.

18 Q. Do you need a like a referral
19 reason to get the FBI involved, why it's
20 been referred?

21 A. Yes.

22 Q. Do you know what the reason was
23 in this particular instance?

24 A. Because the inmate passed away.

25 Q. Do you know whether or not it

1 M.C. WARD

2 was deemed a drug overdose, or a homicide,
3 or something else?

4 MR. ISSACHAROFF: Off the
5 record.

6 (Whereupon, an off-the-record
7 discussion was held.)

8 MR. LAUFER: Read back the last
9 question, please.

10 (Whereupon, the referred-to
11 question was read back by the
12 reporter.)

13 A. Again, I didn't get the report
14 after the investigation was concluded. I
15 think initially we felt it was a drug
16 overdose. But again, not being privy to
17 the coroner's report or anything like that,
18 you know, we went off of a drug overdose.
19 And I think the reason we did that was
20 because, again, there were several other
21 inmates in the unit who also had overdosed,
22 but they were able to revive them.

23 Q. Do you know if any other
24 inmates passed out or had any issues?

25 A. They had passed out during that

1 M.C. WARD

2 evening and other inmates in the unit
3 stated that they had poured water on their
4 face to bring them back to, in a sense. So
5 that led me, as the captain, to believe
6 that it was something that they ingested.
7 You know what I'm saying? Because it was
8 not just Inmate Grant, it was several other
9 inmates in that unit that I can recall who
10 also passed out from something dealing with
11 what Grant had, also.

12 Q. Did you ever get a chance to
13 review the toxicology for my client?

14 A. No, sir.

15 MR. LAUFER: Off the record.

16 (Whereupon, an off-the-record
17 discussion was held.)

18 MR. LAUFER: I have here US 304
19 and 305. I guess for this purpose,
20 we'll mark it as Plaintiff's 1 for
21 this deposition you reviewed.

22 (Whereupon, US 304 and 305 were
23 marked as Plaintiff's Exhibit 1 for
24 identification as of this date by the
25 Reporter.)

1 M.C. WARD

2 Q. Are you familiar with this
3 two-page document?

4 A. Me, sir?

5 Q. Yes.

6 A. Yes.

7 Q. What do you know this two-page
8 document to be?

9 A. That's just the FBI referral
10 investigating an inmate death.

11 Q. Was this document created in
12 the ordinary course and scope of FBOP's
13 business investigating my client's death?

14 A. Yes.

15 Q. At the top of the document,
16 does it give a referral reason?

17 A. I'm not looking at the document
18 right now. Give me a second.

19 Q. Sure.

20 A. Yes. It says homicide.

21 Q. Do you know when this referral
22 was made?

23 A. It shows four days after the
24 incident, which would have been the 22nd.

25 Q. And this was prior to getting

1 M.C. WARD

2 the autopsy report of my client; is that
3 correct?

4 A. I wouldn't know the answer to
5 that question, sir. Because I wouldn't
6 know whether or not the autopsy report came
7 through or not.

8 Q. Do you have any idea why they
9 referred it as a homicide?

10 A. I think initially -- okay.
11 Again, I don't like to assume under oath.
12 But because the officer not knowing what
13 took place going into unit and the inmate
14 is unresponsive could be for numerous
15 conditions. At the time I don't think they
16 knew what happened. So with that report,
17 they would have probably put that down
18 until they got the autopsy findings back to
19 show exactly what happened which resulted
20 in Inmate Grant's death.

21 Q. But there were other
22 classifications they could have put down as
23 the reason for referral, simply inmate
24 death; is that correct?

25 A. Yes.

1 M.C. WARD

2 Q. Do you have any idea why they
3 put down inmate homicide, aside from what
4 you already told us?

5 A. No, sir. I don't know why they
6 put it down as a homicide.

7 Q. Fair enough.

8 I think you may have answered
9 this. I apologize if I'm repeating myself
10 in any way.

11 Prior to the incident involving
12 my client's death, how long were you a
13 captain?

14 A. I was a captain for total of
15 six years.

16 Q. And -- go on.

17 A. As a captain at MCC, as well as
18 a captain at Fairton. And if you want to
19 include my deputy captain time at Brooklyn,
20 it would be a total of nine years.

21 Q. Is there anything else that you
22 can tell me that you haven't already told
23 me regarding the incident involving my
24 client and his death?

25 A. No, sir.

1 M.C. WARD

2 Q. What were the rumors again that
3 you heard as the basis for my client's
4 death?

5 A. The next day, I was told that
6 there were several inmates in the unit also
7 who had passed out that evening, where
8 other inmates in the unit themselves placed
9 them, I think, in the shower area or in the
10 bathroom area to place some water on them
11 to bring them out of the state that they
12 were in. They had passed out. When it
13 came to Mr. Grant, the attempt was made to
14 do the same thing, but he didn't come
15 around.

16 Q. Do you know if he was actually
17 brought into a shower?

18 A. That's what I was told. That
19 he was brought into either a shower or
20 bathroom area, where they would maybe get
21 the water out of the toilet or the shower.
22 I just remember that so much, you know, the
23 inmates saying that there were several of
24 the inmates that they had to drag into the
25 shower area in order to try to revive them.

1 M.C. WARD

2 Because they had -- they must have ingested
3 the same thing that Mr. Grant had ingested
4 or something happened to them which may
5 have happened to him, also.

6 Q. In this particular tier where
7 Mr. Grant was found, how far are the bunks
8 away from where the showers or bathroom
9 are, the facility?

10 A. They're right there. I'm
11 almost sure -- it's been a while, but I
12 think they're close by where -- you know,
13 ten steps places them in the shower area or
14 the bathroom area, where there's access to
15 water and things like that.

16 Q. So there were multiple inmates
17 that supposedly OD'd on K2 that night and
18 they were being dragged into this area to
19 be reviewed by other inmates?

20 A. Yes, sir.

21 Q. During this time period, the
22 officer on duty had no idea any of this was
23 going on?

24 A. Again, I don't know that for a
25 fact. You know what I'm saying? I mean,

1 M.C. WARD

2 inmates are smoking in tiers, you know.
3 Inmates will smoke. It's hard to tell, you
4 know, if he was someplace, you know, doing
5 something, making rounds on another tier
6 when it happened. It's hard to tell.

7 Q. As I think you testified
8 earlier, K2 has a distinctive smell?

9 A. Yes. That's correct.

10 Q. So if inmates were engaging in
11 K2 and it produced that kind of smell, what
12 would, if anything, be the responsibility
13 of the officer on the duty to do in dealing
14 with that?

15 A. Well, again, a lot of times
16 inmates would burn -- they would try to
17 burn like orange peels to disguise
18 different smells like when they would try
19 to go use the restroom in order cover up
20 the different odors, you know. They would
21 burn orange peels. And we would always
22 find those things during shake-downs. You
23 weren't authorized any type of lighters, or
24 matches, or anything like that. So they
25 made those with batteries and wires in

1 M.C. WARD

2 order to create fires. So again, if he had
3 smelled it -- I mean, it wasn't as if they
4 would smoke right out in the open. They
5 would go into the stalls, the restroom
6 stalls, and smoke in those areas like that.

7 Q. Essentially, you're not allowed
8 to burn things, whatever it may be?

9 A. That's correct, sir.

10 Q. Or create fires in any way in
11 these areas?

12 A. That's correct, sir.

13 Q. Inmates at any time?

14 A. At any time.

15 Q. So this was a reoccurring issue
16 prior to my client's death?

17 A. Yes, sir.

18 Q. If the officer on duty smelled
19 anything burning, what, if any, procedures
20 would he follow in addressing that?

21 A. What an officer would have
22 done, he would have walked up into the --
23 on the tier where he smelled the odor, and
24 he would have possibly walked around to see
25 if he could, you know, find the contraband

1 M.C. WARD

2 or the person who would have -- you know,
3 where the odor was coming from in that area
4 to see if he could find some kind
5 contraband. That's what he would have
6 done, you know, more than likely.

7 Q. Would he have called for
8 backup?

9 A. No. Not for a situation like
10 that, sir.

11 Q. Would he have to actually enter
12 the tier through the gate, and then we
13 would conduct the investigation in that
14 manner? Or would he just flash his light
15 inside the gate?

16 A. Right. Either/or. He could
17 go, okay, into the gate, or he could, you
18 know, take his flashlight and look in the
19 area to see if he noticed something that
20 was amiss or -- you know.

21 Q. Do you recall if you
22 interviewed Officer Kerns at any point
23 involving this particular incident?

24 A. As a captain, I would not have
25 interviewed him. No, sir.

1 M.C. WARD

2 Q. Do you know who would have?

3 A. Yes. It would have been my
4 special investigative agent and it would
5 have been the FBI agent.

6 Q. To your knowledge, while these
7 inmates were being dragged that were passed
8 out and being brought into the bathroom,
9 assuming Officer Kerns was assigned to the
10 housing area that night and he looked
11 through the grill, would he have been able
12 to observe this?

13 A. Depends upon where he was at in
14 the unit, sir. Because, again, inmates
15 would not have made a lot of commotion in
16 that type of situation to draw attention to
17 themselves until they felt that it was, you
18 know, something that was really dangerous
19 had taken place. So they would have -- you
20 know, if someone would have smoked or
21 something like that and they would have
22 noticed that the person had a reaction to
23 it and, you know, them just trying to
24 helped, would have dragged that person to
25 the shower, got some water on them, and

1 M.C. WARD

2 placed them back in their bunk. Because
3 that's what I heard the next day had
4 happened. Several of the inmates that had
5 also had a reaction to something that was
6 ingested in that unit that night, which
7 resulted in them being placed in the
8 showers and then reviewed and brought back
9 to their bunks.

10 Q. So I guess my question is, if
11 Officer Kerns, or Kerns, if I'm not
12 mispronouncing his name, flashed his light
13 to the tier, to the grill, I'm assuming
14 that's how he would do it, he wouldn't
15 actually enter the area, would he be able
16 to observe prisoners doing this, dragging
17 prisoners --

18 A. Yes.

19 Q. He would be able to see it?

20 A. He would be able to see it.

21 Most certainly. Yes, sir.

22 Q. Did you come to learn what
23 caused my client's death at any point?

24 A. No, sir. I ended up retiring
25 six months later. And with MCC, we have so

1 M.C. WARD

2 many cases going on, not just inmate death
3 cases, but misconduct cases and, you know,
4 a little bit of everything going. Once the
5 FBI has the case, we pretty much step back
6 until they conduct their investigation and
7 their findings to report back to the bureau
8 as to exactly what happened. I think I had
9 retired before that information came out.

10 Q. Did you ever have a chance to
11 review my client's autopsy report?

12 A. No, sir. Not at all.

13 Q. How about his toxicology
14 report?

15 A. No, sir.

16 Q. If I told you that he was
17 tested for synthetic marijuana and it was
18 not found in his system, nor were any other
19 illicit substances found in his system,
20 would that refresh your recollection?

21 A. No, sir. Because, to the best
22 of my recollection, was that it had
23 something to do with an illegal substance,
24 which resulted in all of those other
25 inmates passing out, as well. I mean, we

1 M.C. WARD

2 had confidential informants in the unit who
3 stated that it wasn't just Grant who got
4 affected. It affected other inmates in the
5 unit, as well. Again, at the time we
6 didn't really know -- we didn't even have
7 tests for the K2 drug. We didn't have the
8 proper testing procedure. So again, you
9 know, for us it was a drug overdose.

10 Q. Did any of your investigators
11 ever find that my client had suffered any
12 kind of blunt force trauma?

13 A. No, sir.

14 Q. Did you come to learn from
15 anyone that my client showed signs that he
16 was choked?

17 A. No, sir.

18 Q. That he had injured his hyoid
19 bone, or his hyoid bone was injured?

20 A. No, sir.

21 Q. Were you ever made aware that
22 my client was actually murdered?

23 A. Was I made aware that he was
24 murdered?

25 Q. Yes.

1 M.C. WARD

2 A. No, sir. Not at all.

3 Q. Did you ever observe my
4 client's body around the time of the
5 incident, after this incident occurred?

6 A. No, sir.

7 But what I will say is that
8 there was something in reference to the CPR
9 that was being performed. Because I think
10 so many staff attempted to perform CPR on
11 him at the time. And so that kind of, you
12 know, through the months, something came up
13 about the level of CPR was not done
14 properly, which could have exacerbated
15 whatever condition he had, which could have
16 possibly resulted. But there was never any
17 concrete -- I never got full concrete
18 information that that's what happened.

19 Q. Do you know if my client's body
20 was ever dropped on the ground while he was
21 being removed from his bunk?

22 A. I did not get information that
23 Mr. Grant was dropped on the ground. No.

24 Q. Or maybe that his head hit the
25 ground while he was being moved?

1 M.C. WARD

2 A. No, sir.

3 Q. Were you ever made aware that
4 he had injuries to his throat and neck?

5 A. I was made aware, as I stated
6 before, about something that -- a rumor
7 again, in reference to the CPR that was
8 performed that may have had something to do
9 with injuries that he had.

10 Q. You heard rumors that someone
11 didn't properly do CPR, which --

12 A. No. Not that they did it
13 improperly. But that amount of CPR that
14 was done resulted in certain marks that he
15 had on his body. You know what I'm saying?
16 Like say, for instance, you have five
17 different people giving someone CPR from
18 different levels of pressure from the CPR
19 itself would cause certain things to happen
20 with the body. I do remember that.

21 Q. Doing CPR, that wouldn't cause
22 any injuries to the throat or neck, would
23 it?

24 A. If done improperly. But I
25 don't know that that happened. So again, I

1 M.C. WARD

2 didn't receive that information, sir.

3 Q. When you're doing CPR, you're
4 doing a number of different things, like
5 chest compressions; is that correct?

6 A. Yes, that's correct, sir.
7 You're doing head lift, chin -- you know,
8 head lift, chin up, chin down, and
9 breathing, and then chest compressions and
10 so forth.

11 Q. And you're breathing into the
12 mouth and things of that nature?

13 A. Yes, sir.

14 Q. So you were not doing anything
15 to the neck or throat, per se?

16 A. You are tilting the head back.

17 Q. Right.

18 A. Lifting the chin. So your hand
19 is around that area right there. Not that
20 you're placing anything here, but you are
21 in that vicinity because you have to
22 control the head. In order to open up the
23 mouth, you're dropping the chin. So your
24 hand is in that area.

25 Q. Okay. Fair enough.

1 M.C. WARD

2 I think you discussed you had
3 SIS training, right?

4 A. Yes, sir. I went to SIS
5 training.

6 Q. When was that again that you
7 went for SIS training?

8 A. I'm not really sure, sir. I
9 went to the bureau of prisons special
10 investigative supervisor training, yes. I
11 am a graduate of that course.

12 Q. Aside from what you've already
13 mentioned, did you have any other role in
14 investigating Grant's death?

15 A. No, sir.

16 Q. Aside from my client's death,
17 have you, throughout your entire career,
18 investigated any other prisoner's death?

19 A. No, sir.

20 I think that was one of the
21 reasons why, for me, I remembered it.
22 Because after 20 years, I said I'm going to
23 walk away without having an inmate die on
24 my watch, and then that happened. And so
25 for me, that was why I remembered so many

1 M.C. WARD

2 small things about it.

3 Q. I think we discussed it before.
4 I apologize.

5 You discussed how often the
6 unit officer is supposed to observe
7 inmates. There has to be once every half
8 hour, I think you mentioned?

9 A. Yeah. 30-minute rounds.
10 30-minute checks.

11 Q. And that he patrols the area?

12 A. That's correct, sir.

13 Q. How would he go about doing
14 anything aside from just patrolling the
15 area?

16 A. He would conduct searches,
17 contraband searches, which we call
18 shake-downs. He would do security checks,
19 looking at the -- ensure that bars are not
20 being tampered with, doors are secured.
21 Things of that nature.

22 Q. I think we discussed earlier
23 that K2 was prevalent within the prison
24 back in 2015?

25 A. When you say prevalent, I think

1 M.C. WARD

2 I said earlier that I wouldn't use the term
3 prevalent. Because during that period of
4 time it was still a new form of synthetic
5 marijuana or drug that we really didn't
6 understand fully.

7 Q. I understand.

8 But it was around. It was
9 definitely active?

10 A. Yes, sir.

11 Q. Do you think Grant's
12 involvement in possibly distribution of K2
13 was a factor in his death?

14 A. I feel that way, sir. Yes,
15 sir.

16 Q. Why do you feel that way?

17 A. Because at the time, again,
18 what the other inmates in the unit were
19 saying, that he had given other inmates
20 that drug. Which resulted in them passing
21 out, as well. And based on the fact that
22 it was his, that, you know -- you know,
23 it's his supply, so he can use as much as
24 he wants. Which resulted in him possibly
25 overdosing from it. Because there were

1 M.C. WARD

2 other inmates in that unit that were
3 affected by what he had given them, or what
4 they had purchased from him. I do remember
5 that, sir.

6 Q. You think the other inmates
7 were upset with Mr. Grant regarding the K2
8 that was distributed, allegedly, by him?

9 A. Not that I -- I never got that,
10 sir. No.

11 Q. What is your responsibility as
12 a captain preventing the introduction of K2
13 into the institution?

14 A. My responsibility is just to
15 ensure, as far as the searches that we
16 conduct of all items coming into a federal
17 prison. The strip searches that are
18 conducted during inmate visits.
19 Surveillance cameras, ensuring that they're
20 all operational so that we could, you know,
21 monitor these things. The policies and
22 procedures are posted outside and shared
23 with all the staff on the Title 18, about
24 bringing in any types of drugs or
25 contraband. And training my staff members,

1 M.C. WARD

2 you know, how to search for contraband, how
3 to look for contraband. I mean, all those
4 things that come into play.

5 Q. Was there any camera
6 surveillance in that particular housing
7 area?

8 A. I'm going -- I think there
9 was -- we would have had surveillance
10 cameras, yes, sir. I don't know if we had
11 any on the range that he was on. But I
12 know we had common area cameras that could
13 see into the common area of that unit. And
14 you could probably catch a view of the
15 tiers. You necessarily couldn't see the
16 inmates if they had bunks in the corners or
17 things like that. But you could still see
18 movement and you can still see the action
19 in the common area of that unit.

20 Q. Do you know if any of the
21 surveillance footage would have captured
22 any of the events that we discussed
23 involving my client's death?

24 A. Not that I can recall. I would
25 have reviewed those cameras myself, you

1 M.C. WARD

2 know. And based on the fact that it was an
3 inmate death, I would assume that those
4 tapes would still be in evidence even till
5 today.

6 MR. LAUFER: I'm going to call
7 for production of copies of any of
8 the surveillance. I know you
9 produced some. I don't know if you
10 produced from the actual inside of
11 the housing area. I'll call for
12 production of that and any kind of
13 surveillance involving the supposed
14 hand to hand transfer of something
15 from Ms. Morrison to Mr. Grant that
16 the captain referred to.

17 MR. ISSACHAROFF: Okay.

18 Q. Now, during the evening hours,
19 these cameras are active, right, in the
20 housing unit?

21 A. They're active 24 hours a day,
22 sir.

23 Q. Whose duty is it to observe and
24 monitor these cameras?

25 A. The special investigative

1 M.C. WARD

2 technicians can pull those cameras up to
3 observe them. Our control center has
4 cameras in their area to be able to see
5 what's going on inside that unit. And I
6 had access to those cameras, also.

7 Q. I understand accessing the
8 footage afterward.

9 In real time, does anyone
10 observe the surveillance footage?

11 A. I mean, there's so many cameras
12 in the institution that, you know, you only
13 have one or two people that would actually
14 be in the room that we have the monitors,
15 the video monitors. You only have one
16 working in that room. So with so many
17 different things going on at one time, you
18 know, they're not looking at -- you know,
19 it's hard to look at 20-something different
20 cameras of 20 different areas at the same
21 time. So if they noted something, they
22 would have notified the lieutenant.

23 Q. Would any of those cameras
24 depict what you described earlier, as
25 inmates bringing other inmates, or

1 M.C. WARD

2 dragging, or carrying, or whatever, other
3 inmates to the bathroom to try to revive
4 them?

5 A. Those would have to be cameras
6 within the unit within that range where
7 those beds are and everything. Those
8 cameras would have to be in there. I think
9 we had cameras in there. We had cameras in
10 the common areas.

11 MR. LAUFER: To the degree that
12 they exist, I would call for any
13 surveillance footage that may exist
14 within the area depicting what
15 occurred.

16 Q. Are you aware of anyone
17 dropping Mr. Grant as he was being
18 transferred to the gurney in the housing
19 unit?

20 A. Not that I'm aware of, sir.

21 Q. So you didn't hear anything at
22 all about Mr. Grant being dropped in any
23 way when he was being transferred to a
24 gurney?

25 A. Not that I'm aware of.

1 M.C. WARD

2 Q. Are all FBOP staff trained in
3 emergency response to medical emergencies?

4 A. Yes, sir.

5 Q. Tell me about your particular
6 training in that regard.

7 A. Oh, boy.

8 First from the military, as
9 well as in the bureau, it's just basic CPR
10 that you would perform on someone that's
11 not breathing. Okay. The use of the AED
12 in our training. And then again, you have
13 medical staff on board. Immediately
14 contacting medical staff to any medical
15 emergency, whatever it may be. As a first
16 responder getting there, you assess the
17 situation. If it's something that you're
18 not trained to do, then you wait for
19 medical staff to arrive.

20 Q. Was it part of your duties as a
21 captain to train staff as responders to
22 emergency situations?

23 A. Yes. Every year we have annual
24 training. And we would go over all type of
25 emergency responses, emergency management.

1 M.C. WARD

2 Medical staff would give classes, you know,
3 of different medical emergencies, medical
4 situations, how to reaction to them and so
5 forth, in dealing in a correctional
6 environment.

7 Q. Are there any additional inmate
8 observation practices at MCC that occurred
9 in 2015 that you haven't already described?

10 A. No, sir.

11 Q. Did any of these procedures or
12 practices change in any way after my
13 client's death?

14 A. I retired right after. So I
15 wouldn't know, sir.

16 Q. Within that six-month time
17 period.

18 A. Okay. No, sir.

19 Q. So as part of the unit
20 officer's duties, would they actually enter
21 the tier, you know, through the gate? Or
22 would they just only flash the light --

23 A. No. They could enter the tier
24 through the gate.

25 Q. Would that be optional for

1 M.C. WARD

2 them?

3 A. Yes, sir.

4 Q. But as they're patrolling, they
5 have the ability to do something like that?

6 A. Yes, sir.

7 Q. The inmates in this particular
8 housing unit, do they engage in any kind
9 of, like, horseplay? Any kind of, you
10 know, choking each other, things like that,
11 you know, to pass out or any of that stuff?
12 Are you aware of anything like that?

13 A. I mean, inmates are always
14 wrestling and doing, you know, things that
15 we don't necessarily approve of, you know,
16 within the confines of their housing units,
17 you know. Because those things could turn
18 serious. But inmates do horseplay, you
19 know, wrestle. All of those things like
20 that, sir.

21 Q. And that's something that they
22 shouldn't be doing and you tell them to not
23 do it?

24 A. Yes, sir. There's an actual
25 violation for that.

1 M.C. WARD

2 Q. And inmates have gotten injured
3 involving engaging in horseplay, correct?

4 A. Yes, sir. That's correct.

5 Q. What is the sanction for
6 engaging in horseplay?

7 A. I think it's a low sanction for
8 something like that, you know. Maybe some
9 extra duty or something. But it doesn't --
10 that's not a high level disciplinary action
11 for something like that.

12 MR. LAUFER: Lucas, I'm going
13 to have him review the Form 583.

14 (Whereupon, 583 form was marked
15 as Plaintiff's Exhibit 2 for
16 identification as of this date by the
17 Reporter.)

18 Q. Are you familiar with the
19 document?

20 A. Yes, sir.

21 Q. Was this document created in
22 the ordinary course and scope of your work
23 at the DOP?

24 A. Yes, sir.

25 Q. This particular document, I

1 M.C. WARD

2 believe it states 390 and 392.

3 Can you describe for me the
4 contents of the document?

5 A. Yes, sir. It's a report of
6 incident. Section one is the actual
7 general information. It will talk about
8 the type of incident. Section two would be
9 the inmates involved. If they have inmates
10 involved in that incident. Section three
11 is any other inmates involved. Any lethal
12 weapon discharge is section four. Section
13 five if there is a use of force. And
14 section six is the description of the
15 incident.

16 Q. What you just described for me,
17 is it consistent with your understanding of
18 what occurred on the evening of my client's
19 death?

20 A. From the initial incident, yes,
21 sir. Because that's not the investigative
22 findings of that. That's just the initial
23 incident.

24 Q. Are you familiar with the
25 investigative findings?

1 M.C. WARD

2 A. No. I don't have the 586 or
3 any of the FBI the reports after the fact,
4 sir. No.

5 Q. Did you at any time review any
6 of those documents?

7 A. No, sir.

8 Q. So you're not aware of what the
9 initial findings were?

10 A. No, sir.

11 Q. Do you know whether or not you
12 or anyone at MCC conducted an after actual
13 review of this incident?

14 A. Again, after the FBI finding
15 and so forth, that would have been done. I
16 wasn't privy to that. I don't recall ever
17 seeing a 586 from that incident, sir.

18 MR. LAUFER: Lucas, did you
19 ever produce the 586 to me?

20 MR. ISSACHAROFF: Could you
21 describe what that would look like to
22 me?

23 MR. LAUFER: It would be like
24 an after accident review, what the
25 findings what the FBI did.

1 M.C. WARD

2 THE WITNESS: 583, they both
3 are together. 583, then you have the
4 586, which is after accident review.

5 MR. ISSACHAROFF: Let me take a
6 look for that.

7 I will look and see if that's
8 something we have and I'll see
9 whether that can be produced.

10 Q. Are you aware of what a
11 mortality review is?

12 A. Am I aware of what a mortality
13 review is?

14 Q. Yes.

15 A. No, sir.

16 I mean, based on the word, I
17 can -- I have an understanding of what it
18 is. But no, I wasn't part of that. No.

19 Q. Do you know if anyone was
20 charged in relation to my client's death?

21 A. Not that I recall, sir. Not
22 that I know of, sir.

23 Q. Did you have to review any True
24 scope logs for the 24 hours encompassing my
25 client's death?

1 M.C. WARD

2 A. No, sir.

3 MR. LAUFER: I think I made
4 this call for production of those
5 logs. I'm going to remake that
6 demand. I'll get you some post-EBT
7 demand requests. I will make them in
8 writing to you.

9 I'm going to call for
10 production for the 24 hours
11 encompassing my client's death, the
12 True scope of the logs that you guys
13 may have.

14 MR. ISSACHAROFF: Okay.

15 Q. Just give me a few minutes. I
16 think we're almost done, Captain Ward.

17 A. Okay.

18 Q. I may have asked this before.

19 Would the unit officer be able
20 to see inmates bringing other inmates into
21 the shower?

22 A. If he was standing next to the
23 grills, yes.

24 Q. But not from his post?

25 A. Again, dependent upon where he

1 M.C. WARD

2 is from the officer's station, he could,
3 you know. It depends upon where he is in
4 that officer's station and where the tiers
5 are. It's been a while, so I don't
6 really -- I can't for sure say how it would
7 look today.

8 Q. Do you think the changes BOP
9 made in relation to how many officer should
10 be assigned to a particular housing unit
11 may have contributed to my client's death
12 in any way?

13 A. No.

14 Q. You don't think that if there
15 had been more officers in the unit
16 patrolling the unit, observing the unit,
17 securing the unit, may have in any way
18 prevented my client's death?

19 A. No, sir. I don't think so.

20 MR. LUCAS: I think we've
21 already requested this, Lucas, the
22 586, the after accident review.

23 MR. ISSACHAROFF: Off the
24 record.

25 (Whereupon, an off-the-record

1 M.C. WARD

2 discussion was held.)

3 MR. LAUFER: We had a
4 conversation off the record.

5 Q. Would normally, Captain Ward, a
6 586 form be completed in order to close an
7 investigation?

8 A. That's correct, sir. Because
9 the way that the system works, an
10 investigation -- we were given time limits
11 on certain investigations based on things
12 that would take place at an institution.
13 The 586 -- the 583 is done, which is the
14 report of incident. And then the 586 will
15 be done, closing that investigative stage
16 file. Because it would the case number.
17 The same case number on the a 583 would be
18 on that 586. In order to close that, you
19 would need both.

20 Q. So normal procedure would
21 require 586 to be completed in order to
22 close a case?

23 A. Correct. Because that's the
24 after accident. That's like everything is
25 all done. And that's -- 586 would have

1 M.C. WARD

2 came out of that.

3 Q. And the 586 wouldn't be
4 completed if an investigation was still
5 open?

6 A. That's correct, sir.

7 Q. Who would complete the 586?

8 A. The special investigative
9 agent, or the special investigative
10 supervisor.

11 Q. Would they wait for the FBI to
12 finish their investigation before that?

13 A. They could at times. You know.
14 They could always wait for the FBI to
15 complete their investigation. Depends upon
16 the warden. You know, if the warden wanted
17 that 586 completed, then they would say,
18 "okay. Based on what we have right here,
19 let's put it through."

20 Q. We're over five years past the
21 incident.

22 A. Right.

23 Q. Would there be any reason to
24 keep a case open that long like this?

25 A. If there were still questions

1 M.C. WARD

2 on the case.

3 Q. Okay.

4 A. Probably why we're here right
5 now.

6 Q. Would a civil lawsuit prevent a
7 586 from being completed?

8 A. No. Not at all.

9 Q. What would be the only reason
10 why a 586 might remain open, to your
11 knowledge?

12 A. If it's still -- they still
13 have not come to the findings -- the exact
14 findings of an inmate's death or a finding
15 of an incident.

16 Q. Have you ever heard of an
17 incident like this, or any kind of
18 incident, having remained open this long?

19 A. Yes.

20 MR. LAUFER: Lucas, to the
21 degree it exists, I don't know who
22 you would need to speak with, but we
23 need to find out whether or not a 586
24 form was done. I'm not saying that
25 you're sitting on it. Absolutely

1 M.C. WARD

2 not.

3 MR. ISSACHAROFF: I think the
4 criminal investigation has never been
5 closed.

6 MR. LUCAS: So that's still
7 ongoing?

8 MR. ISSACHAROFF: It is more or
9 less dormant, but ongoing.

10 MR. LAUFER: It's dormant but
11 ongoing. All right.

12 Q. Would a continuing criminal
13 investigation, Captain Ward, to your
14 knowledge, prevent a 586 from being
15 executed?

16 A. Yes.

17 Q. It seems that since the case is
18 dormant, even though it may still be
19 considered open, would that prevent a 586
20 from being done?

21 A. It would. Because with the
22 586, you have all the facts that are needed
23 to close that case docket out. Again, this
24 is in a computer system within the bureau,
25 in the True system. And that would show it

1 M.C. WARD

2 as still being open, pending investigation.

3 MR. LAUFER: Lucas, we got to
4 get to the bottom of this. I mean if
5 this thing is still open, preventing
6 the 586 from being issued or what, I
7 mean, there are still suspects out
8 there, even though the leads have
9 grown cold, my clients have a right
10 to know what's going on here. And
11 I'm also going to need this for
12 discovery for the case. So I don't
13 know what you need to do, but we kind
14 of need to kind of get to the bottom
15 of what the United States Attorney's
16 is doing, or what the criminal
17 division is doing, with anything in
18 regard to this.

19 MR. ISSACHAROFF: I mean, I
20 think we're going to have to
21 potentially talk to the court about
22 this. Because, you know, my view is
23 that there's a civil case and there's
24 whatever is happening with the
25 criminal investigation. I certainly

1 M.C. WARD

2 don't have any ability to tell them
3 "you need to close your investigation
4 and issue your findings."

5 MR. LAUFER: I hear you. But
6 regardless, you know, I think my
7 client's next of kin has a right to
8 know what occurred here.

9 So if I could just ask you to
10 do another search for a 586 or just
11 get to the bottom of why one hasn't
12 been issued. It's probably because
13 of what Captain Ward may have
14 mentioned.

15 Also, I could imagine what your
16 objection would be to something like
17 that, if there's an active criminal
18 investigation. But it doesn't seem
19 like it's an active criminal
20 investigation anymore. Not
21 necessarily something that's being
22 pursued zealously. I guess we may
23 have to engage in some motion
24 practice in regard to that.

25 I think at this juncture I'm

1 M.C. WARD

2 done with Captain Ward's deposition.

3 I think we have another one scheduled
4 for Thursday. I need you to get me
5 the ID for Lieutenant Delaney, or DHO
6 Delaney. A copy of his DOP ID. And
7 I'll get you some post EBT demands.

8 MR. ISSACHAROFF: Did I not
9 send that over to you during the last
10 deposition? Because that was the one
11 we took a few weeks ago.

12 MR. LAUFER: Right. And he
13 wasn't able to have a video. So if
14 you could just shoot that over.

15 Okay, Captain Ward. I
16 appreciate your time here and thank
17 you. This is very important to my
18 client and I appreciate your
19 cooperation with this. Stay safe and
20 good luck with everything.

21 (Whereupon, at 12:15 P.M., the
22 Examination of this witness was
23 concluded.)

24 ° ° ° °
25

1 M.C. WARD

2 D E C L A R A T I O N

3
4 I hereby certify that having been
5 first duly sworn to testify to the truth, I
6 gave the above testimony.
7

8 I FURTHER CERTIFY that the foregoing
9 transcript is a true and correct transcript
10 of the testimony given by me at the time
11 and place specified hereinbefore.
12
13
14

15 MICHAEL CRAIG WARD
16
17

18 Subscribed and sworn to before me
19 this _____ day of _____ 20____.
20
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22 NOTARY PUBLIC
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M . C . W A R D

E X H I B I T S

P L A I N T I F F (s) ' E X H I B I T S :

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M.C. WARD

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INFORMATION AND/OR DOCUMENTS	PAGE

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area and any kind of surveillance	
involving the supposed hand to hand	
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exist within the area depicting	
what occurred	80
Production of the True scope of	
the logs for the 24 hours	
encompassing Mr. Grant's death	88
Find out whether or not a 586	
form was done	92

M.C. WARD

C E R T I F I C A T E

STATE OF NEW YORK)
: SS.:
COUNTY OF SUFFOLK)

I, MELISSA HARBORD, a Notary Public
for and within the State of New York, do
hereby certify:

That the witness whose examination is
hereinbefore set forth was duly sworn and
that such examination is a true record of
the testimony given by that witness.

I further certify that I am not
related to any of the parties to this
action by blood or by marriage and that I
am in no way interested in the outcome of
this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 10th day of August 2020.

A handwritten signature in dark ink, appearing to read 'MELISSA HARBORD', with a long horizontal flourish extending to the right.

MELISSA HARBORD

CASE NAME: Nicole Morrison v. United States Of America Et Al
DATE OF DEPOSITION: 7/28/2020
WITNESSES' NAME: Michael Craig Ward

[illegible]

SUBSCRIBED AND SWORN TO BEFORE ME
THIS _____ DAY OF _____, 20____.

MY COMMISSION EXPIRES:

[& - anymore]

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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